

Appl. No. 09/618,741

Third Response to the Final Office Action mailed May 12, 2004 **(CORRECTED)**

**REMARKS/ARGUMENTS**

The above-identified patent application has been amended and reconsideration and re-examination are hereby requested.

Applicant wishes to make of record a telephone interview with Examiner Hoffmann yesterday, Sept. 8, 2004. The Examiner indicated that the second response to the final rejection filed August 5, 2004 was improper because it lacked a ")" after "41. ( previously presented" and therefore would not be entered.

A third amendment to this final rejection was transmitted to the Patent Office yesterday, Sept. 8, 2004, by facsimile transmission.

After filing the third amendment, a review of the claims indicated that claims 51 and 52 were the same as claims 49 and 50, respectively. Therefore, claims 49 and 50 have been amended herein to depend on claim 47. In view of the fact that it is not known at this time whether the third amendment was entered, Applicant files this as a "correction" to the third amendment.

In view of the fact that the Amendments filed July 15, 2004 and August 5, 2004 were not entered, the Remarks/Arguments in such response are presented again below:

The renumbering of claims 50, 51, 52 and 46 (second occurrence) is noted in paragraph 1 of the office action and such renumbering has been reflected in the claims presented above.

Claims 43, 44, and 48 have been amended to depend on claims 41, 41, and 47, respectively, thereby removing the rejection set forth in paragraph 2 of the office action.

Claims 32, 34, 38, and 39 have been amended to end in a period thereby removing the objection set forth in paragraph 3 of the office action.

Claims 8, 10-13, 32, 34, 36, 39, 41 and 47 stand rejected under 35 U.S.C. 112, first paragraph. It is noted that the specification provides a teaching to one of skill in the art as to how to make and use the invention. The specification also provides a preferred range of temperatures. The specification points out on page 10, line 29 that: "Other embodiments of the above-described method are possible." Then again, the specification concludes at page 11, line 8 with: "Other embodiments are within the claims". When reading the claims, it is clear that many claims do not cite a specific temperature range. It is noted that Summary section does not refer to any specific range of temperatures.

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Next, reference is also made to page 7, line 22 to page 8, line 20 where at lines 16-20 of page 8 the specification states:

Thus, by selecting the proper dimensions of retort 120 and adjusting the feed rate of reactant mixture 150, the temperature of the furnace, and rotational speed of retort 120, system 300 can produce a continuous output of AION.

Thus, it is applicant's position that the rejection of claims 8, 10-13, 32, 34, 36, 39, 41 and 47 under 35 U.S.C. 112, first paragraph, should be removed.

The allowance of claim 39 is hereby acknowledged.

The allowability of claims 33, 35, 37, 42, 40 and 44 is hereby acknowledged.

It is noted that a one month extension of time request was faxed to the Patent Office with the third response to the final rejection on September 8, 2004 thereby extending the time for response to September 12, 2004. In the event a petition for extension of time is required by this paper and not otherwise provided, such petition is hereby made and authorization is provided herewith to charge deposit account No. 50-3192 for the cost of such extension.

In the event any additional fee is required, please charge such amount to Patent and Trademark Office Deposit Account No. 50-3192.

Respectfully submitted,

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Date

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